

SEP 04 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ANIBAL RENE ABREGO-AQUINO,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 06-72976

Agency No. A70-780-759

MEMORANDUM *

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted August 26, 2008**

Before: SCHROEDER, KLEINFELD, and IKUTA, Circuit Judges.

Anibal Rene Abrego-Aquino, native and citizen of Guatemala, petitions pro
se for review of the Board of Immigration Appeals' order dismissing his appeal

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

from an immigration judge's ("IJ") decision denying his application for asylum and withholding of removal. We review Abrego-Aquino's asylum and withholding claim for substantial evidence, *Nahrvani v. Gonzales*, 399 F.3d 1148, 1151 (9th Cir. 2005), and constitutional claim de novo, *Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000). We deny in part and dismiss in part the petition for review.

Substantial evidence supports the agency's determination that Abrego-Aquino failed to establish past persecution or a well-founded fear of future persecution based on a protected ground. *See INS v. Elias-Zacarias*, 502 U.S. 478, 483-484 (1992). Substantial evidence also supports the agency's finding that Abrego-Aquino failed to establish a well-founded fear of future persecution, because his fear is too speculative. *See Nahrvani*, 399 F.3d at 1154.

Because Abrego-Aquino failed to establish eligibility for asylum, he necessarily failed to meet the more stringent standard for withholding of removal. *See Zehatye v. Gonzales*, 453 F.3d 1182, 1190 (9th Cir. 2006).

Abrego-Aquino's contention that the IJ was prejudiced fails because he failed to show that he did not have a full and fair hearing. *See Colmenar*, 210 F.3d at 971.

We lack jurisdiction to review Abrego-Aquino's claim for humanitarian asylum because he failed to exhaust it before the agency. *See Barron v. Ashcroft*, 358 F.3d 674, 677 (9th Cir. 2004).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.